

## **REMARKS**

Claims 1 and 21-27 are now pending in the application. Claims 1 and 21-27 have been rejected. Claim 1 has been canceled without prejudice. Claim 21 has been amended herein. Claims 28-36 have been added herein. Reconsideration is respectfully requested in light of the present amendments and following remarks. The above amendments and following remarks are believed to be fully responsive to the outstanding Office Action and to render all claims at issue patentably distinct over the cited references.

### **REJECTION BASED ON DOUBLE PATENTING**

The Examiner has rejected Claim 1 based on double patenting of the "same invention" under 35 U.S.C. 101. This rejection is respectfully traversed. Notwithstanding, Claim 1 has been cancelled without prejudice or disclaimer. Accordingly, it is respectfully requested that the instant rejection be withdrawn.

### **REJECTION UNDER 35 U.S.C. §103**

The Examiner has rejected Claim 21 under 35 U.S.C. §103(a) as being unpatentable over Applicant's admission of prior art in view of Kishimoto et al. (U.S. Patent No. 4,791,461). This rejection is respectfully traversed. It is believed that the originally filed claims are patentably distinct over the cited references. Notwithstanding, independent Claim 21 has been amended to state that the first aperture is offset from the excitation light. Support for this amendment can be found in Figures 1 and 2 and the accompanying text. In contrast, neither Kishimoto nor Applicant's admission, individually or in any combination thereof, disclose, teach or suggest the claimed combination of elements, especially as amended. For example, Figures 3 and 4 of

Kishimoto disclose an aperture which is in the same line as the irradiating source. Having the first aperture offset from the excitation light is advantageous in fluorescent measurements for improved sensitivity especially when the Stokes shift is relatively small. Accordingly, it is respectfully requested that the instant rejection be withdrawn.

The Examiner has rejected Claims 22-27 under 35 U.S.C. §103(a) as being unpatentable over Applicant's admission of prior art in view of Kishimoto et al. and further in view of Neel et al. (U.S. Patent No. 5,639,668). This rejection is respectfully traversed. It is believed that the originally filed claims are patentably distinct over the cited references. Notwithstanding, independent Claim 21 for which Claims 22-27 depend has been amended as discussed above. In contrast, none of the following Kishimoto, Neel, or Applicant's admission, individually or any combination thereof, disclose, teach or suggest the claimed combination of elements, especially as amended. For example, Figure 1 of Neel discloses the need for a reference detector which is not necessary in Applicant's embodiments as disclosed.

All of the claim amendments not specifically discussed herein have been made to either broaden the claim or to improve grammar and not to overcome any cited references. Therefore, all these claim amendments should be entitled to the full range of equivalents.

### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt

and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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